

REMARKS**Introduction**

The present application includes claims 1-30, wherein claims 1, 7, 10, 11, 15, 18, 21, and 27 are presented in independent form and claims 16 and 17 are withdrawn from consideration. Applicants acknowledge with appreciation the Examiner's indication that claims 27-30 contain allowable subject matter. Reconsideration and reversal of the rejection of claims 1-15 and 18-26 presented in the Office Action dated February 3, 2005 is respectfully requested in light of the following amendments and arguments.

Prior Art Rejections

The Examiner rejected claim 15 under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent Application JP 10-266510 (hereinafter "Japanese Application"). The Examiner rejected claims 1-3, 5-12, 14 and 19-26 under 35 U.S.C. § 103(a) as being unpatentable over Japanese Application in view of U.S. Patent No. 2,306,934 to Cade (hereinafter Cade). The Examiner rejected claims 4, 13 and 18 under 35 U.S.C. § 103(a) as being unpatentable or Cade as modified by Japanese Application in further view of U.S. Patent No. 5,875,792 to Campbell, Jr. et al. (Hereinafter Campbell).

§ 102(b) in view of the Japanese Application

Applicants respectfully submit that the Japanese Application simply does not support the Examiner's rejection of claim 15 under 35 U.S.C. § 102(b) in light of the amendment to claim 15.

The Japanese Application relates to a handrail configured to connect to a wall. The handrail includes segments and is attached to a wall for use with a stair case.

Claim 15

The Japanese Application fails to teach or suggest a combination including "A pair of siderails for use with a hospital bed, each siderail including a flexible body including a flexible material having a plurality of laterally extending apertures..." as required by amended claim 15. The Japanese Application relates to a handrail for use with a wall and does not include a pair of siderails for use with a hospital bed as required by amended claim 15.

Therefore, Applicants believe that amended claim 15 is in condition for allowance with respect to the Japanese Application. Removal of the rejection and allowance of claim 15 is respectfully requested. If the Examiner should disagree with the Applicants' arguments,

the Examiner is asked to kindly point out with particularity where the limitation is expressly disclosed.

§ 103(a) in view of Japanese Application in view of Cade

Applicants respectfully submit that the combination of the Japanese Application and the Cade patent does not support the Examiner's rejection of amended claims 1, 7, 11 and 21 under 35 U.S.C. § 103(a). The case law is clear that in order for the U.S. Patent and Trademark Office to "establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." Manual of Patent Examining Procedure (M.P.E.P.) Section 2143.

Claim 1

Neither reference discloses, teaches or suggests "a bedframe including a pair of longitudinal sides and a siderail located along at least one of the pair of longitudinal sides..." as recited in amended claim 1. The Examiner fails to show any objective teaching that would suggest modifying the handrail as disclosed in the Japanese Application in the manner claimed. There is simply no teaching, suggestion or motivation for one of ordinary skill in the art to combine the Japanese Application's handrail with the bathtub rail in Cade to arrive at the claimed invention.

Therefore, Applicants believe that amended claim 1 is in condition for allowance with respect to the combination. Removal of the rejection and allowance of claim 1 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where the limitation is expressly disclosed.

Claims 2-6, 8 and 9

Claims 2-6, 8 and 9 depend from claim 1. In that claim 1 is believed to be allowable, claims 2-6, 8 and 9 are also believed to be allowable. Removal of the rejections and allowance of claims 2-6, 8 and 9 is respectfully requested.

Claim 7

Neither reference discloses, teaches or suggests "...the flexible body being able to flex so as to alter the size of the notches and defining a siderail channel therein adapted to receive a bed siderail therein..." as recited in amended claim 7. The Examiner fails to show any objective teaching that would suggest modifying the handrail disclosed in the Japanese Application in the manner claimed. In addition to lacking the element of a siderail channel adapted to receive a bed siderail, there is simply no teaching, suggestion or motivation for one of ordinary skill in the art to combine the Japanese Application's handrail with the bathtub rail in Cade to arrive at the claimed invention.

Therefore, Applicants believe that amended claim 7 is in condition for allowance with respect to the combination. Removal of the rejection and allowance of claim 7 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where the limitation is expressly disclosed.

Claim 10

Neither reference discloses, teaches or suggests "...the flexible body adaptable to cover the hospital bed siderail" as recited in amended claim 10. The Examiner fails to show any objective teaching that would suggest modifying the handrail disclosed in the Japanese Application in the manner claimed. In addition to lacking the element of a hospital bed siderail, there is simply no teaching, suggestion, or motivation for one of ordinary skill in the art to modify the Japanese Application to arrive at the present invention in view of the Cade patent. In other words, one of ordinary skill in the art would simply not be motivated to combine the Japanese Application's handrail with the bathtub rail in Cade to arrive at the claimed invention.

Therefore, Applicants believe that amended claim 10 is in condition for allowance with respect to the combination. Removal of the rejection and allowance of claim 10 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where the limitation is expressly disclosed.

Claim 11

Neither reference discloses, teaches or suggests "a bedframe including a pair of longitudinal sides and a siderail located along at least one of the pair of longitudinal sides..." as recited in amended claim 11. The Examiner fails to show any objective teaching that would suggest modifying the Japanese Application in the manner claimed. In other words, one of ordinary skill in the art would simply not be motivated to combine the Japanese Application's handrail with the bathtub rail of Cade to arrive at the claimed invention.

Therefore, Applicants believe that amended claim 11 is in condition for allowance with respect to the combination. Removal of the rejection and allowance of claim 11 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where the limitation is expressly disclosed.

Claims 12-14, 19, and 20

Claims 12-14, 19, and 20 depend from claim 11. In that claim 11 is believed to be allowable, claims 12-14, 19, and 20 are also believed to be allowable. Removal of the rejections and allowance of claims 12-14, 19, and 20 is respectfully requested.

Claims 16 and 17

Claims 16 and 17 depend from allowable generic claim 11. Accordingly, Applicants submit that claims 16 and 17 are appropriate for consideration and are likewise in condition for allowance.

Claim 21

Neither reference discloses, teaches or suggests "a patient support surface; and a pair of siderails, each siderail including a body comprising a flexible material having a plurality of adjustably sized notches therein, the body having a first longitudinal end..." The Examiner fails to show any objective teaching that would suggest modifying the Japanese Application in the manner claimed. In other words, there is no teaching, suggestion or motivation for one of ordinary skill in the art to combine the Japanese Application's handrail with the bathtub rail in Cade to arrive at the claimed invention.

Therefore, Applicants believe that amended claim 21 is in condition for allowance with respect to the combination. Removal of the rejection and allowance of claim 21 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where the limitation is expressly disclosed.

Claims 22-26

Claims 22-26 depend from claim 21. In that claim 21 is believed to be allowable, claims 22-26 are also believed to be allowable. Removal of the rejections and allowance of claims 22-26 is respectfully requested.

§ 103(a) in view of Japanese Application in view of Cade in view of Campbell

Applicants respectfully submit that the combination of the Japanese Application, the Cade patent, and the Campbell patent is improper and therefore does not support the Examiner's rejection of amended claim 18 under 35 U.S.C. § 103(a).

In the present case, there is simply no hint or suggestion to modify the handrail apparatus of the Japanese application to achieve the applicant's invention of claim 18 as amended. The Examiner simply fails to satisfy the Patent and Trademark Office burden of establishing obviousness.

None of the references disclose, teaches or suggests "a flexible body adaptable to be coupled to a hospital bed" as recited in amended claim 18. The Examiner fails to show any objective teaching that would suggest modifying the Japanese Application in the manner claimed. The Campbell patent relates to wire products for use in fields such as hair curlers, holders for ponytails, and the like. The Cade patent relates to handrails for a bathtub. In other words, there is no teaching, suggestion or motivation for one of ordinary skill in the art of siderails to combine the Japanese Application's handrail with the wires of Campbell and the bathtub rails of Cade to arrive at the claimed invention.

Therefore, Applicants believe that claims 1, 7, 10, 11 and 21 are in condition for allowance with respect to the Japanese Application in view of Cade. Removal of the rejection and allowance of claims 1, 7, 11 and 21 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where the teaching and motivation to modify the references as claimed is expressly disclosed in the references.

Appeal

Without undue speculation or otherwise, the Applicants are unable to find support for the Examiner's rejections of at least claims 2-6, 8-9, 12-14, 19-20, and 22-26 other than by way of the reasons for rejection of the independent claims. As these dependent claims contain additional limitations not recited in the independent claims. To enable the Applicants

to better respond to any potential remaining rejections or appeal, Applicants respectfully request that the Examiner provide additional specificity for the rejections of the dependent claims.

Final Remarks

In view of the foregoing amendments and remarks, Applicants submit that the application is now in condition for allowance. A Notice of Allowance is earnestly solicited.

If necessary, Applicants request that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. Applicants request that any required fees needed beyond those submitted with this Response be charged to the account of Bose McKinney & Evans LLP, Deposit Account Number 02-3223.

Respectfully submitted,

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